

AO 243 (Rev. 09/17)

**MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY**

<b>United States District Court</b>		District of Texas Northern Division	
Name (under which you were convicted): Juan Jimenez-Nava		Docket or Case No.: 4:18-CR-00093-A-3	
Place of Confinement: FCC OAKDALE II		Prisoner No.: 57033-177	
UNITED STATES OF AMERICA		Movant (include name under which convicted) Juan Jimenez-Nava	

**V.**

**MOTION**

U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF TEXAS  
**FILED**  
 AUG - 3 2020  
 CLERK U.S. DISTRICT COURT  
 By bb jo:10a  
 Deputy

CTJ

1. (a) Name and location of court which entered the judgment of conviction you are challenging:  
 United States District Court for the Northern District of Texas  
 Fort Worth Division
- (b) Criminal docket or case number (if you know): 4:18-CR-00093-A-3 4:20-CV-476-A
2. (a) Date of the judgment of conviction (if you know): October 12, 2018  
 (b) Date of sentencing: October 12, 2018
3. Length of sentence: 262 Months
4. Nature of crime (all counts):  
 21 U.S.C. §§ 846 & 841 (a)(1) and (b)(1)(B) Conspiracy to possess with intent to distribute a controlled substance.
5. (a) What was your plea? (Check one)  
 (1) Not guilty ☐ (2) Guilty ☒ (3) Nolo contendere (no contest) ☐
6. (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

6. If you went to trial, what kind of trial did you have? (Check one) Jury ☐ Judge only ☐
7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes ☐ No ☒

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8. Did you appeal from the judgment of conviction? Yes ☒ No ☐

9. If you did appeal, answer the following:

(a) Name of court: Court of Appeal for the Fifth Circuit

(b) Docket or case number (if you know): 18-11393

(c) Result: Denied

(d) Date of result (if you know): November 8, 2019

(e) Citation to the case (if you know): \_\_\_\_\_

(f) Grounds raised: Mitigating Role Adjustment

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If "Yes," answer the following:

(1) Docket or case number (if you know): \_\_\_\_\_

(2) Result: \_\_\_\_\_

(3) Date of result (if you know): \_\_\_\_\_

(4) Citation to the case (if you know): \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☐ No ☒

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

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(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Docket of case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

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12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE:** Movant suffered a Fourth Amendment violation due to the ineffective assistance of counsel for failure to investigate the Government's illegal warrantless search and seizure. (a) **Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):**

Please see supporting facts in Section IV. A. Ground One in the pro-se Memorandum of Law in Support of Motion to vacate, set aside, or correct (Pages 10, 11, 12, 13, 14, 15 and 16)

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**(b) Direct Appeal of Ground One:**

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

- (2) If you did not raise this issue in your direct appeal, explain why:

The Issue Was Not Mature for Appeal

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**(c) Post-Conviction Proceedings:**

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

- 
- (3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐



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(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

**GROUND TWO:** Counsel was ineffective for failure to file a motion to suppress the evidence found inside the apartment.

(a) **Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):**

Please see supporting facts in Section IV. B. Ground Two in the pro-se Memorandum of Law in Support of Motion to Vacate, Set Aside, or Correct (Please see Pages 17, 18, 19, 20, 21 and 22).

(b) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

The Issue Was Not Mature for Appeal

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

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**GROUND THREE:** Movant received ineffective assistance of counsel when counsel failed to properly appraise him of the lack of investigation on Movant's defense strategy.

**(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):**

Please see supporting facts in Section IV. C. Ground Three in the pro-se Memorandum of Law in Support of Motion to Vacate, Set Aside, or Correct (Please See Pages 22, and 23).

**(b) Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

The Issue Was Not Mature for Appeal

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

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(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

**GROUND FOUR:** Counsel was ineffective for her failure to object to hearsay statements.

(a) **Supporting facts** (Do not argue or cite law. Just state the specific facts that support your claim.):

Please see supporting facts in Section IV. D. Ground Four in the pro-se Memorandum of Law in Support of Motion to Vacate, Set Aside, or Correct (Please See Page 24).

(b) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

The Issue Was Not Mature for Appeal

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:



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Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

The claim of ineffective assistance of counsel which this motion is based upon was not previously presented in any federal Court. Claims of ineffective assistance of counsel may be initially presented in a Section 2255 proceeding.

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14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

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15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At the preliminary hearing:

Pia R. Lederman 116 W. Randol Mill Rd. Suite B Arlington, Tx. 76102

(b) At the arraignment and plea:

Pia R. Lederman 116 W. Randol Mill Rd. Suite B Arlington, Tx. 76102

(c) At the trial:

Pia R. Lederman 116 W. Randol Mill Rd. Suite B Arlington, Tx. 76102

(d) At sentencing:

Pia R. Lederman 116 W. Randol Mill Rd. Suite B Arlington, Tx. 76102

(e) On appeal:

Pia R. Lederman 116 W. Randol Mill Rd. Suite B Arlington, Tx. 76102

(f) In any post-conviction proceeding:

(g) On appeal from any ruling against you in a post-conviction proceeding:

- 
16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

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18. **TIMELINESS OF MOTION:** If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.\*

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\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of –

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

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Therefore, movant asks that the Court grant the following relief:

To Vacate his sentence, set aside, or correct sentence  
or any other relief to which movant may be entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on July 29, 2020  
(month, date, year)

Executed (signed) on July 29, 2020 (date)

JUAN JIMENEZ NAYA  
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 4:20-CV-476-A  
(CASE NO. 4:18-CR-00093-A-3)

JUAN JIMENEZ-NAVA

CERTIFICATE OF FILING AND SERVICE

I, Juan Jimenez-Nava, hereby certify that I have served 3 true correct copies of the following:

Motion to Vacate, Set Aside, or Correct a Sentence Under 28 U.S.C. § 2255, which is deemed filed at the time it was delivered to prison authorities for forwarding, \* Houston v. Lack, 487 U.S. 266 (1988), upon the respondent and/or its attorney(s) of record by placing same in a sealed first class pre-paid postage envelope addressed to the United States District Court for the Northern District of Texas, Fort Worth Division. The Clerk of the Court, 501 W. 10th St., Room 310, Fort Worth, Texas, 76102., and deposited into this institution mail system located at FCI OAKDALE II, P.O. BOX 5010, OAKDALE, LOUISIANA, 71463.

I hereby certify that on July 29, 2020, I forwarded a copy of the foregoing documents to the Court at the address above;

JUAN JIMENEZ NAVA  
Juan Jimenez-Nava

\*Pursuant to Fed. Rule App. F 25(a)(2)(c), " A paper filed by an inmate confined in an institution is timely filed if deposited in the institution's internal mail system on or before the last day for filing."

JUAN JIMENEZ-NAVA  
REG. NO. 57033-177  
FCI OAKDALE II  
P.O. BOX 5010  
OAKDALE, LA. 71463

7000 0600 0024 4909 0409

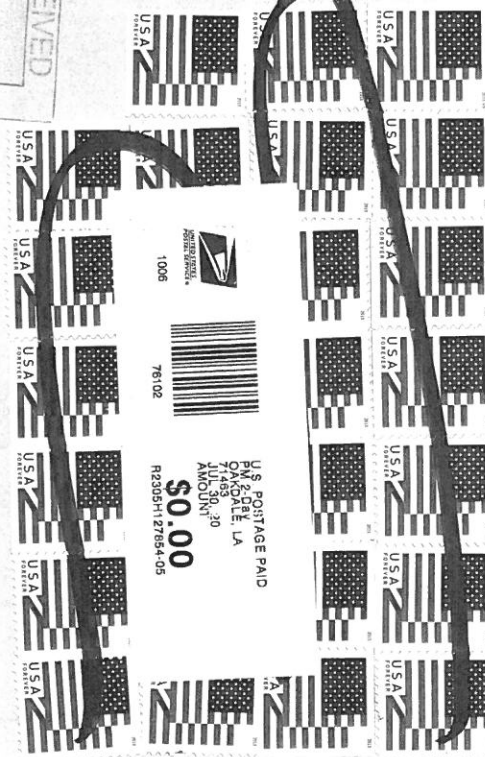


PLACE STICKER AT TOP OF ENVELOPE  
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**CERTIFIED MAIL**



THE CLERK OF THE COURT  
UNITED STATES DISTRICT COURT  
501 W. 10th. ST., ROOM 310  
FORT WORTH, TX. 76102



Federal Correctional Institution  
Oakdale, LA 71463

"The enclosed letter was processed through special mailing procedures for forwarding to you. The letter has been neither opened nor inspected. If the writer raises a question or problem over which this facility has jurisdiction, you may wish to return the material for further information or clarification. If the writer encloses correspondence for forwarding to another addressee, please return the enclosure to the above address."

7-30-20

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